

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 10-20077

RICHARD ALLAN ZORN,

Defendant.

ORDER SETTING BRIEFING SCHEDULE

Seeking credit for eight months he spent in state custody awaiting sentencing for state offenses, Defendant Richard Zorn asked the federal district court for an eight-month reduction of his federal sentence. (See Dec. 21, 2010, Sentencing Hr'g Tr. 45, Dkt. # 36.) The district court concluded that no authority empowered the court to allow Defendant to serve a federal sentence and an anticipated state sentence concurrently. (*Id.*) The Sixth Circuit affirmed, 461 F. App'x. 493 (2012), but the Supreme Court vacated, 133 S.Ct. 149 (2012), and remanded "for further consideration in light of *Setser v. United States*," which holds that a district judge may run a federal sentence either consecutively or concurrently with an anticipated state sentence, *Setser*, 132 S.Ct. 1463 (2012).

The action returns to the district court. The Sixth Circuit instructs the court "to exercise its discretion [to decide] whether Zorn's federal sentence should run consecutive to, or concurrent with, his state-court sentence." 461 F. App'x. 493. Accordingly,

IT IS ORDERED that each party shall submit a sentencing memorandum; Zorn by **January 7, 2013**, and the Government by **January 21, 2013**. Each memorandum shall state whether the party desires a hearing and, if so, why.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 11, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 11, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522